

### **REMARKS/ARGUMENTS**

These remarks are submitted in response to the Advisory Action of June 26, 2007 (Advisory Action). This response is filed with a petition for one-month extension of time, in addition to a Request for Continued Examination. However, the Examiner is expressly authorized to any charge fees to Deposit Account No. 50-0951 to maintain the pendency of this Application.

In the Advisory Action, the previous rejection of Claims 9, 10, 19, 20, 35, 36, 45, and 46 under 35 U.S.C. § 112, first and second paragraphs was maintained. The rejection of Claims 1-20 and 23-46 under 35 U.S.C. § 102(b), as being anticipated by U.S. Patent 5,794,210 to Goldhaber et al. (hereinafter Goldhaber), was also maintained.

#### **Claims Rejections – 35 USC § 112**

As noted above, Claims 9, 10, 19, 20, 35, 36, 45, and 46 were rejected under 35 U.S.C. § 112, first and second paragraphs. In particular, the Advisory Action stated that the prior amendments to the Claims failed to provide or explain any system or method for biasing a negotiation. In response to the Advisory Action, Claims 9, 10, 19, 20, 35, 36, 45, and 46 have been amended in this response to include further limitations that bias the negotiation in favor of the consumer or the merchant or the consumer on the basis of a negotiation rule provided to the negotiation engine, separate from the rules specified in the MBOs and CPRs. For example, the other negotiation rule can specify that the incentive value for an agreement be maximized or minimized during the negotiation process, depending on the bias of the system. Such an amendment is fully supported throughout the Specification. (See, e.g., pg. 14, line 18 to pg. 15, line 9, and pg. 17, lines 1-12). No new matter has been added by these amendments.

#### **Amendments to the Claims**

Although Applicants respectfully disagree with the rejections, Applicants nonetheless have amended the claims in order to expedite prosecution of the present application by further emphasizing certain aspects of the claims. Applicants respectfully assert, however, that the claim amendments presented are not intended as, and should not be interpreted as, the surrender of any subject matter. Applicants are not conceding by these amendments that any previously submitted claims are unpatentable over the references of record. Applicants' present claim amendments are submitted only for purposes of facilitating expeditious prosecution of the present Application. Accordingly, Applicants respectfully reserve the right to pursue any previously submitted claims in one or more continuation and/or divisional patent applications.

In this response, Applicants have amended independent Claims 1, 11, 23, 27, and 37 to emphasize certain aspects of the claims. In particular, the independent claims have been amended to recite the limitation that the comparing step further includes a negotiating step without merchant or consumer interaction. Additionally the independent claims have been amended to recite the limitation that the negotiating step occurs by not only considering the rules in the MBOs and the CPRs, but also by considering additional rules provided to the negotiation engine, rules that can be used to provide a neutral or a biased negotiation engine. Furthermore, the independent claims also include the further limitation that prior to the negotiation, a negotiation engine first determine whether at least one agreement is possible, based on the information in the MBOs and CPRs and without merchant or consumer interaction. Finally, the independent claims recite the further limitation that, responsive to an agreement being negotiated, the sale is completed using the incentive, and the specific customer information is exchanged. Such amendments are fully supported throughout the Specification. (See, e.g., pg. 14, lines 8-17; pg. 16, lines 18-27, pg. 14, line 18 to pg. 15, line 9, and pg. 17, lines 1-12). No new subject matter has been introduced by these amendments.

**The Claims Define Over the Cited References**

As noted above, the Advisory Action maintained the rejection of the previous Office Action. In particular, the Advisory Action states that a negotiation engine recited in the claims is also disclosed by the software agents of Goldhaber. Goldhaber discloses a system and method for brokering information. However, in view of the amendments to the claims, Applicants respectfully submit that Goldhaber, alone or in combination with any other reference of record, fails to disclose or suggest each and every element of the claims.

In particular, Goldhaber fails to disclose the negotiation engine that the Advisory Action suggests exists in Goldhaber. Applicants respectfully submit that Goldhaber does not provide a negotiation engine or an intermediary of any kind and certainly not one such as the NE 210 of the present invention. At col. 8, lines 26-28, Goldhaber states that "[t]his is an on-line trading 'floor' where buyers and sellers (or their software agents) can actively find each other and negotiate transactions." Contrary to the suggestion in the Advisory Action, the software agents in Goldhaber perform the buying and selling without any intermediary engine. The 'floor', as provided by Goldhaber only provides a common location for the agents to interact. That is, the software agents actively engage each other during the negotiation on the 'floor,' as opposed to providing the trading information to a neutral or biased third party who decides the terms for the agreement.

In other words, Goldhaber provides a platform for traditional selling and buying, where agents directly negotiate with each other and advance their own interests. In contrast, the present invention recites the limitation that negotiation is conducted by a third entity, the negotiation engine, which can not only consider the interests of each party, as stated in the MBOs and CPRs, but also can take into account other parameters for the negotiation. An example would be a negotiation engine that uses a set of negotiation rules to negotiate an agreement which is neutral (i.e., splits the difference between consumer and merchant objectives) or which is biased (i.e., favors attainment of

one party's objectives over the other party's objective). Such a configuration allows merchants to provide a negotiation engine that negotiates agreements that always try to produce agreements that are more favorable to the merchant.

One of the advantages of the construct of the present invention, as described on page 14, lines 14-19, of the Specification is thus apparent: "Though the NE 210 can be a neutral mediator between the consumer and the merchant, in another embodiment of the invention, the NE 210 can be programmed with a bias towards either the merchant or the consumer. For example, the party installing the privacy negotiation system can bias the system towards that party's objectives. Thus, if the privacy negotiation system was installed by a consortium of merchants, the privacy negotiation system can be biased in favor [of] the merchants." As noted previously, if the present invention were deployed as a service, the service owner/operator would have the flexibility to skew the negotiation as desired.

Accordingly, Goldhaber, alone or in combination with any reference of record, fails to disclose, suggest, or render obvious each and every feature recited in the independent claims. Applicants therefore respectfully submit that the independent claims define over the references of record. Furthermore, as the remaining claims each depend from one of the independent claims while reciting additional features, the dependent claims likewise define over the references of record.

## CONCLUSION

Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the

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Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

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